

**REMARKS**

Claims 1-12 were pending. The applicant respectfully requests reconsideration and allowance of this application in view of the above amendments and the following remarks.

The applicant acknowledges and appreciates receiving an initialed copy of the form PTO-1449 which accompanied the Information Disclosure Statement that was filed on June 2, 2005.

Claims 1, 5, and 8 were rejected under 35 USC 103(a) as being allegedly unpatentable over Fuseki, U.S. Patent No. 5,188,348 in view of Cox, Jr. U.S. Patent No. 4,079,3784 (hereinafter "Cox"). The applicant respectfully requests that this rejection be withdrawn for the following reasons.

The applicant first notes that the Examiner has apparently withdrawn the indication of allowability with regard to claim 8 (see page 5 of the Office Action mailed March 23, 2005). No reasons are provided for the withdrawal of allowability. However, the applicant believes that claim 8 is allowable and notes that claim 8 recites, *inter alia*, a DSP configured to provide a selection signal such that when the rotational speed is within a designated range, the selection signal indicates that the divided encoded signal should be output, and when the rotational speed is outside the designated range, the encoded signal should be output.

Claim 8 is allowable in that the above noted feature, aside from being associated with a DSP, is similar to that of allowable claims 2 and 6. The applicant submits therefore that claim 8 is allowable for the same reasons as claims 2 and 6. Applicant submits that the applied art combination fails to teach or suggest, *inter alia*, a DSP configured as claimed. Accordingly, a *prima facie* case of obviousness has not been established with regard to claim 8 in that the applied art combination fails to teach or suggest all the features as required. It is respectfully requested therefore that the rejection of claim 8 be reconsidered and withdrawn.

With regard to the rejection of claims 1 and 5, the applicants first note that the recited timer is configured to measure a first period, e.g. T1, of the encoded signal which is divided to generate a divided encoded signal having a second period, e.g. T2. One of skill in the art would appreciate that according to the claimed relationship,  $T2/T1 = 1/n$  and, correspondingly,  $T2 = T1/n$ . Thus, the first period T1 is divided by "n" to generate the second period. Contrary to the Examiner's assertion, the claimed invention does not divide the frequency. Rather, in accordance with the present invention, the claimed timer measures the period rather than counting a number of cycles, as described in Fuseki, and the claimed divider divides the period, or, in other words, multiplies the frequency.

In view of the above discussion, the applicants believe that the Examiner has mischaracterized the features of Fuseki in making the rejection. A close review of Fuseki reveals that a counter (6) counts and frequency divides the output of the rotary encoder (5) as noted in col. 2, lines 41-43. In accordance with Fuseki, the rotary encoder (5) outputs a periodic signal and the counter (6) counts the number of cycles in the periodic signal. The number of cycles counted in a one second interval corresponds to the frequency. Counter (6) divides the frequency and outputs a frequency divided signal to ROM (4) in accordance with Figure 1 of Fuseki.

Since frequency is the inverse of period and since dividing the frequency by N means multiplying the period by N, then, at best, Fuseki describes counting the number of cycles and dividing the frequency or multiplying the period. In the claimed invention, according to claims 1 and 5, for example, rather than counting the number of cycles, the claimed timer measures the period and the claimed divider divides the period or multiplies the frequency.

Applicant notes that the Examiner has not specifically indicated that Cox teaches the above features. Cox is cited as allegedly accounting for the failure of Fuseki to teach that the

second period is related to the first period by a factor of 1/n. A close review of Cox however again reveals a timer (27) coupled to a frequency divided signal which divides the output of the timer by N. As noted above, in accordance with the present invention, the claimed divider divides the period, or, in other words, multiplies the frequency as opposed to dividing the frequency as taught in Cox. Thus Cox and Fuseki, alone or in combination fail to teach or suggest the claimed features.

Applicants further incidentally note that no evidence has been provided of a suggestion or motivation contained in the references or in the knowledge generally available in the art that would guide one of ordinary skill to make the combination.

Notwithstanding the lack of evidence in support thereof, the applied art combination still fails to teach or suggest the features in the manner claimed for at least the reasons set forth hereinabove with regard to the deficiencies of Fuseki and Cox. It is respectfully requested therefore that the rejection of claims 1 and 5 be reconsidered and withdrawn.

The applicant notes with appreciation the indication of allowable subject matter with regard to claims 2-4, 6, 7, and 9-12. Applicant reserves the opportunity to rewrite claims 2 and 6 into independent form including the limitations of their respective base claims pending the outcome of further prosecution on the merits and consideration of the present response. Claim 9 has not been rewritten, but is nevertheless believed to be allowable by virtue of depending from claim 8.

In view of the foregoing, the applicant respectfully submits that this application is in condition for allowance. A timely notice to that effect is respectfully requested. If questions relating to patentability remain, the examiner is invited to contact the undersigned by telephone.

Please charge any unforeseen fees that may be due to Deposit Account No. 01-305.

Respectfully submitted,



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